

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

DIANE COWAN, et al.

PLAINTIFFS

and

UNITED STATES OF AMERICA

PLAINTIFF-INTERVENOR

v.

Civil Action No. 2:65-CV-00031-DMB

**BOLIVAR COUNTY BOARD OF
EDUCATION, et al.**

DEFENDANTS

Motion to Stay of the Cleveland School District

Defendant Cleveland School District (“the District”) moves the Court to stay its Order of May 13, 2016, pending a ruling on the District’s proposed consolidation plan, or in the alternative, for a stay pending appeal.

1. On May 13, 2016, this Court entered a Memorandum Opinion and Order adopting the plan proposed by the Government for consolidation of the District’s middle schools and high schools. Under the Government’s plan, the District would assign all ninth through twelfth-grade students to Cleveland High School and Margaret Green as a single consolidated high school, and assign all sixth- through eighth-grade students—except the sixth-grade students at Bell and Hayes Cooper—to the current East Side High School, creating a consolidated middle school.

2. After the Court’s order was entered, the Cleveland School Board voted to submit its own consolidation plan to the Court. The District’s plan proposes sending all sixth-grade students—except those at Hayes Cooper or Bell—to a renovated Walter Robinson Achievement Center (WRAC). All seventh through twelfth-grade students will attend Cleveland High School and Margaret Green Junior High School, with the addition of a new ninth-grade wing designed to

accommodate the increased numbers there. East Side High School and D.M. Smith Middle School will be closed. *See*, [221], [222].

3. As of June 1, 2016, white students comprised 28.5% of the District's total enrollment. The District is concerned the Government's consolidation plan will cause white students to leave the District, thereby reducing opportunities for meaningful diversity and continued desegregation. In fact, white student departure is already increasing as a result of the Court's adoption of the Government's plan as set out in the District's Memorandum in support motion to stay. The primary aim of the District's proposed consolidation plan, therefore, is to decrease the likelihood of white student departure. School districts are entitled to deference in devising and implementing constitutional desegregation methods, and case law expressly allows this Court to consider student enrollment loss when choosing among constitutional plans.

4. Staying execution of this Court's order will prevent unnecessary expenditures of resources and preserve opportunities for increasing integrated enrollment while the Court makes its final decision on the District's plan.

5. In the alternative, the District has filed an appeal of this Court's May 13, 2016 Order. Although the District plans to dismiss its appeal if this Court accepts its consolidation plan, a stay pending appeal is necessary if the Court rejects the District's proposed plan. As described in the District's accompanying Memorandum, a stay pending appeal will prevent irreparable injury without harming the Plaintiffs or the public.

For the foregoing reasons and those set out in its Memorandum in support of motion to stay, the District respectfully requests this Court grant a stay pending its resolution of the District's consolidation plan, or in the alternative, grant a stay pending appeal.

Respectfully submitted, this 15th day of August, 2016.

CLEVELAND SCHOOL DISTRICT

/s/ John S. Hooks

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CERTIFICATE OF SERVICE

I, John Hooks, attorney for Defendant Cleveland School District, do hereby certify that I have this date served by electronically filing via the ECF system to all registered counsel of record.

Dated: August 15, 2016.

/s/ John S. Hooks